

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 5:08-CR-54**

UNITED STATES OF AMERICA,)
)
)
vs.)
)
)
GREGORY ROLAND PRUESS,)
)
)
Defendant.)
)

**ORDER ON GOVERNMENT'S MOTION FOR AN ORDER REQUIRING LIQUIDATION OF
VALUABLE PROPERTY HELD BY THE ATF TO BE APPLIED TO FINE**

THIS MATTER is before the Court on the Government's motion to liquidate certain property and apply proceeds in satisfaction of the outstanding fine imposed against the defendant (Doc. # 55) filed February 12, 2010. This matter is now ripe for disposition.

BACKGROUND

On November 9, 2009, a criminal judgment was entered against Gregory Roland Pruess ("Pruess"). Pruess was sentenced to 21 months incarceration, ordered to pay a special assessment in the amount of \$100.00 and a fined in the amount of \$550.00.

To date, Pruess has paid \$0.00 towards his special assessment and fine. The special assessment balance of \$100.00 remains due and owing. The fine balance of \$550.00 remains due and owing. The criminal judgment orders that the payment is due immediately and that the fine amount be reduced by any money seized from the defendant at the time of his arrest.

The ATF seized \$550.00 in U.S. currency from the defendant Pruess during a controlled delivery and subsequent arrest on October 21, 2008.

DISCUSSION

The ATF has funds in its possession that will partially satisfy the debt the defendant owes the United States. 18 U.S.C. § 3572(D)(1) provides that, “A person sentenced to pay a fine or other monetary penalty, including restitution, shall make such payment immediately, unless in the interest of justice, the court provides for payment on a date certain or in installments.”

Federal Courts are without jurisdiction to remit or modify a fine absent a petition of the government for such relief pursuant to 18 U.S.C. § 3573. *See also United States v. Roper*, 462 F.3d 336, 341 (4th Cir. 2006). Accordingly, it is proper for this Court to order the ATF to liquidate the \$550.00 currently in its possession and pay the proceeds to the United States District Clerk of Court, 401 West Trade Street, Charlotte, NC 28202, in satisfaction of the criminal fine ordered.

CONCLUSION

THEREFORE, IT IS HEREBY ORDERED that the ATF liquidate the property mentioned above and pay the proceeds to the United States District Clerk of Court, 401 West Trade Street, Charlotte, NC 28202, in satisfaction of the criminal fine ordered.

Signed: June 30, 2011



Richard L. Voorhees
United States District Judge

